

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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12-CV-4727 (VB)

**HOME DEPOT U.S.A., INC.'S NOTICE OF MOTION TO DISMISS WITH PREJUDICE
ALL COUNTS OF THE CONSOLIDATED COMPLAINT**

PLEASE TAKE NOTICE that, upon the Memorandum of Law of Home Depot U.S.A., Inc. dated October 9, 2012, defendant Home Depot U.S.A., Inc. will move this Court, before the Honorable Vincent L. Briccetti, United States District Judge, in the United States District Courthouse for the Southern District of New York, 300 Quarropas Street, White Plains, New York 10601-4150, Courtroom 620, for an order dismissing with prejudice all counts of the Consolidated Complaint in the above-referenced action directed at Home Depot pursuant to Rules 12(b)(6) and 9(b) of the Federal Rules of Civil Procedure, at a date and time convenient to the Court and parties.

Dated: October 9, 2012

Respectfully submitted,

KING & SPALDING LLP

By: /s/ S. Stewart Haskins

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